(1948) Department.

Ms. SERIES.

G.O. No. 2221

Dated 16.9.48

[Despatch Abstract]

Tax - Commercial Taxes - Proceedings meetings of the first three meetings of the Commercial Taxes - Advisory Committees. Papers Recorded.

Revenue Department

The first meeting of the Advisory Committee on Commercial Taxes was held on 22-6-1948 in the room of the Hon'ble Minister for Finance. The following were present:-

The Hon'ble Minister for Finance.
The Hon'ble Minister for Industries.
Sri K. Venkataswami Naidu, M.L.C.
Sri S. Jayarama Reddi, M.L.C.
Sri G. Venkata Reddi, M.L.C.
Mr. P.P. Hasan Koya, M.L.A.,
Sri .N.M.R. Subbaraman, M.L.A.
Sri Guntur Narasimha Rao, M.L.A.
Mrs. Kuttimalu Amma, M.L.A.
Sri M.H. Aswathayya, Ex-chairman, Hindupur, Anantapur district.
Sri B.N. Reddi, 15, Vijaya Raghavachari Road, Theagarayanagar.
Sri Batsu Venkateswarlu, Commission Agent, Bezw___
S. Ranganathan, Esq., O.B.E., I.C.S., First Member, Board of Revenue.
Khan Sahib Mohammed Sultan Mohiuddin Hussain Sahib Bahadur, Additional Joint Secretary, Board of Revenue.
P.S. Viswanatha Ayyan, Esq., I.C.S., Secretary, Board of Revenue Department.
Sri K. Krishnaswami Ayyar, Deputy Commissioner of Commercial Taxes.
V.K. Rao, Esq., I.C.S., Deputy Secretary Revenue Department.

H.M. opened to proceedings w- in the a few remarks. He welcomed to delegated and explained to scope of the committee's functions.

The question of the payment of travelling allowance to Membe of the Committee for the journeys they undertake to attend its meetings was considered. H.M.(Finance) agreed that the Members might get Travelling Allowance at first class rates; i.e., the Committee will be a first class Committee for the purpose of the G.O. governing the travelling allowance of Members of Government Committees. Necessary orders will have to issue in consultation with Finance.

(1) Senna leaves and pods- Exemption from tax--Request by the Indian Chamber of Commerce, Tuticorin.

The Committee considered that the request of the Tuticori Indian Chamber of Commerce for exemption from ta- --- -ot be granted.

(2) Enhancement of scales of licence fees under the Madras General Sales Tax Act, 1939 with effect from 1-4-48.

The Committee did not consider any change necessary in the scale of licences of fees recently prescribed by the Government.

(3) Mainenance of accounts in Provincial languages or in Hindustani or in English-Enforcement of the provisions of Section 13 of the Madras General Sales Tax Act.

After some discussion, it was agreed that consideration of this subject might be deferred to the next meeting at which, H.M. Finance suggested, a representative of the Hindustan Chamber of Commerce might be requested to be present to explain the Chamber's point of view. H.M.(Finance) also desired that a referenee might be made to the other Provinces to ascertain whether freedom was give under the salestax Acts and other taxation measures in force in thos Provinces to merchants to keep their accounts in any language they linked or whether therefere were any restrictions and if so, to ascertain the nature of such restrictions.

(4) Bullion and specie--Enhancement of rate of tax from 1/4 of one per cent-Suggestion by the Bombay Government for the levy of a uniform rate of sales tax on bullion and specie in all provinces.

piecemeal
The Committee considered that there should be no/~~piecemeal~~ change, and that the question of having a ~~impor~~ uniform set of provisions for the whole of India should be taken up seperately.

(5) Constitution of an Appellate Tribunal.

The First Member of the Board of Revenue and the Additional Joint Secretary ~~ex~~ explained at length the proposals which the Boar had submitted to the Government regarding the constitution of a Tribunal. It was considered that a fee of 2 per cent of the amount of the tax in dispute subject to a minimum of.Rs.50 may be levied when an assessee desires to take up his case before the appellate ~~ti~~ tribunal. H.M.(Finance) suggested that the fee payable may be subjected to a maximum of Rs. 500. Several Members of the Committee considered this upper limit too high, should be deleted. Rs. 250 should be the maximum was the opinion of the constitution. Th Board's proposals regarding the composition of the Tribunal and prov sion for reference to the High Court on points of law were considered suitable. It was also agreed that at the ~~op~~ option of parties a appeals to the Deputy Commission's from the Deputy Commercial Tax Officers should be allowed, provided to parties voluntarily agreed to give up his right to approach to tribunal. The Board was to its entirely of appellate or revisional jurisdiction.

(6) The Madras General Sales Tx (Amendment) Bill, 1948 regarding the levy of sales tax at a single point at the rate of 1/2 per cent in respect of cotton yarn other than handspun yarn.

The proposal to levy a single point tax of 1/2 of one per cent instead of the two point tax of 1/4 per cent which was in force prior to the decontrol of yarn was accepted. The tax will be levied on the first dealer in the Province who has a taxable turnover.

(7) Powers of the Government to interfere with the orders in revision passed by the Board of Revenue which are statutorily final and / see 11 and see 12. /~~and~~ unde

It was pointed out that so far as the Madras General Sales Tax Act is concerned the question will not arise after the constitution of an appeallate tribunal. The Madras Sales of Motor Spirit Taxation Act also contains a provision to the effect that the Board's orders are final. The Members of the committee were general of the view that it was not desirable to have any change in the present position.

(8) Form of accounts and conditionsof licence relating to Commission Agents-Modifications.

The First Member of the Board of Revenue and the Additiona Joint Secretary mentioned that they were not quite prepared for a discussion of the subject at to-day's meeting. It was decided to defer consideration of the subject to the next meeting.

(9) Levy of tax on hides and skins.

Mr. Nazir Hussain, in a letter which he addressed to the Government a few days ago, raised several points. As Mr. Hussain was unable to be present at the meeting, it was throught desirable to postpone consideration of this subject.

(10) Chekku oil Industry-Exemption from sales-tax.

The Members of the Committee desired that the report of the Committee which the Government had recently appointed to enquire int this matter might be circulated to them before they were called upon to express their views . The report of the chekku oil committee ~~ma~~ may be circulated to the Members of the Advisory Committee at an early date so that the subject may be taken up for consideration at the next meeting. H.M.(Finance) also mentioned that he might ask the Chairman of the Chekku Oil Committee, Mr. M.G. Natesa Chettiar, M.L.A. to be present at the next meeting when this subject is taken up for considerat-ion.

The next meeting of the Committee will be held on the 22nd of July, 1948 at 5.45 p.m.

Sd/ V.A.Rao,
22.6.48.

Sd/ H.M.(Finance)

Please see my marginal remarks. Please take steps about the Tribunal.

SP.

Sd/ B.Gopal Reddi,
Minister for Finance.

Revenue Department

A meeting of the Commercial Taxes Advisory Committee was held on the 22nd and 23rd instants. The following Members and Officials were present:-

The Hon'ble Minister for Finance.
Sri K. Venkataswami Naidu, M.L.C.
Sri S. Jayarama Reddi, M.L.C.
Sri G. Venkatara Reddi, M.L.C.
Sri N.M.R. Subbaraman, M.L.A.
Sri Guntur Narasimha Rao, M.L.A.
Mr. C.M Kothari, M.L.A.,
Mr. M. Nazir Hussain.
Sri M.N. Aswathayya, Ex-Chairman, Hindupur, Anantapur district.
Sri B.N. Reddi, 15, Vijayaraghavachari Road, Theagarayanagar.
Sri Batsu Venktateswarlau, Commission Agent, Bezwada.
Sri S. Ranganathan, Esq. O.B.E., I.C.S., First Member Board of Revenue.
Khan Sahib Mohammed Sultan Mohiuddin Hussain Sahib Bahadur, Additional Joint Secretary, Board of Revenue.
Sri G. Venkateswara Ayyar, O.B.E., I.C.S., Secretary Revenue Department.
Sri K. Krishnaswai Ayyar, Deputy Commissioner of Commercial Taxes.
Sri M. Rayappa Reddi, Deputy Commissioner of Commercial Taxes.
Sri V.K. Rao, Esq., I.C.S., Deputy Secretary, Revenue Dept.

2. The Committee first took up the question of enforcing the provisions of Section 13 of the Act. Prior to the recent amendment of the Act, dealers were at liberty to maintain accounts in any language they pleased. Under Section 13 of the Act it is now obligatory for a dealer to keep his accounts in one of the provincial lauguages or alternatively in Hindustani or English. On a representation from the Hindustani or English. On a representation from the Hindustan Chamber of Commerce on behalf of the Gujarathi and Marwari merchants, the operation of this provision has, by executive instructions, been kept in abeyance till 1-10-48. Two representatives of the Hindustan Chamber of Commerce, who were present at the meeting by special invitation, explained the difficulties which Gujarathi and Marvari merchants who now keep their accounts in these languages would face if the provisions of Section 13 were enforced and pleaded that they should be allowed to continue to keep their accounts in their languages. H.M.(Finance) enquired at this stage whether any replies have been received from theother provincial Governments to our enquiry whether there were any restrictions in other provinces in the matter of the language in which accounts may be maintained. He was informed that a reply had been received only from East Punjab to the effedt that there were no restrictions in that Province. After some discussion, the Committee recommended that Gujarathi and Marvari merchants shouldbe allowed to keep their accounts in those languages as in the past and that this was to done not by the issue of executive instructions or by includihg Gujarathi and Marvari in Section 13 of but by deleting the provisions from the Act altogether.

Mr. S. Ranganathan, First Member, Board of Revenue, suggested that in the even of this recommendation being accepted by the Government, the Board's proposals already sent up to the Governmentfor the training of a few officials in these languages should be examined and given effect to at an early date.

3. Chekku oil industry:- The Government have appointed a Committee to enquire into the question of exempting country chekku owners from liability to sales-tax. The terms of reference to the Committee and summary of its recommendations were sent in advance to the Memebers of the Advisory Committee. The recommendation were that oneand two chekku owners should be exempted from liability to sales-tax irrespective of their turnover on payment of a licence fee of Rs. 12 and Rs. 50 per annum respectively. Mr. M.G. Natesa Chettiar, Chairman of the Committee, was present by special intitation and explained his Committee's recommendations and the considerations

underlying them. On behalf of the department, Mr. Ranganathan, First Member, Board of Revenue, pointed out the administrative difficulties in granting total exemption from liability to tax to one chekku owner irrespective of their turnover. A person owning two or more chekkus might, for instance, claim exemption saying that he owns only one chekku and that the others belong to relations of his. Again, he may be carrying on trade in oil purchased from others and not merely be dealing in the produce of his chekku. The Chekku Enquiry Committee felt that most single chekku owners would not be liable to tax even under the existing Act and rules if only they took advantage of the provisions of Rule 18 of the Turnover and Assessment Rules, but that they were unable to do so largely due to their illiteracy and their consequent inability to keep elaborate accounts. This was one of the reasons why the Committee thought it fit to recommend total exemption to the chekku owners. To meet this difficulty, which is probably genuine, the Department said that instructions might be issued to the assessing officers to show leniency in applying the provisions of Rule 18 and also to show considerable latitude in the matter of accounts. If this was done, there would be no need to exempt one chekku owners from tax irrespective of their turnover. The Advisory Committee however felt that exemption from sales-tax might be given to one chekku owners as an experiment and recommended that for a period of one year from 1-4-48, single chekku owners might be exempted from liability to sales-tax on payment of a licence fee of Rs. 25 per annuam. The concession is to be restricted to one chekku owners dealing exclusively in the produce of their own chekkus. The intentionis that a single chekku owner who takes out a licence on payment of this fee will not have any further liability in the matter of sales-tax even if his turnover should exceed Rs. 20,000/- while a single chekku owner who does not take out such licence will be assessed to sales-tax under the usual provisionsof the Act.

4. Commission Agents:- There have been numerous representations from commission agents about the impracticability of complying with some of the conditions of the licence issued to them under Section 8 of the Act and of maintaining accounts in the forms prescribed. Mr. Ramanujulu Chetty, on behalf of the Andhra Chamber of Commerce was present by special invitation. He explained to the committee the difficulties of commission agents. These difficulties fall mainly under the following the two heads:--

(a) conditions 7(a)(1) and 7(b)(1) of the licence:-
These require in the case of buying and selling agents respectively, the production of a written order to the commission agent from the principal authorising him to act on behalf of the principal. It is stated on behalf of the commission agents that these conditions are not capable of compliance in all cases because there may not be a written order given by the principal in person by word of mouth or over the telephone.

(b) Conditions 7(a)(ii) and 7(b)(ii):- These require the production of vouchers for the incidental charges actually incurred (c.f., condition 5 of the licence and also the second proviso to Section 8). The difficulties in complying with these conditions are two-fold. The first is that it is impossible in most cases to specify what the incidental charges actually incurred in respedt of each transaction or of each principal are. Goods belonging to various principals are stored in the same godown for varying periods. Itwill clearly not be possible to say what portion of the godown rent or the wages of the godown establishment or the insurance premia for the goods stored should be debited to each principal or to each transaction in which which the agent is concerned. Similarly the same vehicle may be used for the transport of goods belonging to various principals and it cannot be said what the actual charge in respect of each transaction or of each principal are. The second is that no voucher can be produced for every item of incidental charge. For example, loading and unloading charges, cooly hire and transport charges. The usual trade practice is to charge an approximate amount to cover all such incidental expenses.

Mr. Ramajujulu Chetty stated that the intention underlying the two conditions 7(a) (1) and 7(b)(i) is to make sure that the commissionagent is really a commission agent acting on behalf of known principals and not a dealer himself trying to pass off his

his own dealings as commissionagency transactions on behalf of fictitious principals. The same purpose can be fulfilled in another way. He suggested that, instead of demanding the production of a written order from the principal, the department might insist on the preparation by the commission agent a patti in triplicate. The patti will show in the case of a buying agent, the name and address of the principal, the goods bought on his behalf, the date of purchase, the price, the agreed commission and the incidental charges; in the case of the selling agent, it will show the name and address of the principal, the goods sold on his behalf, the date of sale, the price; the agreed commission and the incidental charges. As soon as a transaction is complete, these pattis in triplicate will be prepared and two copies will be sent to the principal who will retain one and return the other to the commission agent with his signature. In this manner, the department can ensure that the commission agent is really a commission agent. By means of a cross-check, the departmental officials can satisfy themselves about the existence of the principals and the genuineness of the transactions reported in these pattis. The Board with whom the matter had been previoussly discussed by him seemed to accept this as a satisfactory way out of the difficulty.

As regards the incidental charges, the department agreed that the difficulties pointed out by the commission agents were genuine. Mr. Chetty suggested that it might be laid down the aggregate amounts collected by a commission agent by way of incidental charges from his various principals in the course of a year should not exceed the amount actually spent by him by more than a certain percentage (to be settled after further discussion) and thet the Government might appropriate to themselves the excess, if any, after a scrutiny of the accounts. It was pointed out that the Government could not appropriate such excess in the absence of any legal sanction for such a course; nor are the Government satisfied that such a course is the most satisfactory way out of the difficulty. It was suggested by the Board that in the eventof such excess being found, the commission agent might be taxedas a dealer. Mr. Ramanujul Chetty however contended that once the Government are satisfied that a particular person is really a commission agent, it would be most unfair to tax him as a dealer merely because he had collected a littl amount in excess byway of his incidental charges.

Revenue Secretary suggested that the department might be given some time to examine both points further and present the depart ment's tentative conclusions to the Committee at its next meeting. This was accepted.

5. British Cochin-Reduction of the rate of sales-tax:- It has been brought to the notice of the Government that the firms in Britis Cochin find it unprofitable to continue their business in the Britis Cochin area as their foreign trade is adversely affected by the enhancement in the general rate of sales-tax to 3 pies in the rupee while it continues to remain at 1% in the surrounding Cochin territory. It is feared that the dealers in British Cochin will shift their godown to state Territory to avoid the higher rate of Madras Sales-Tax and to keep up competition with dealers of the State territory. This may eventually result in loss of sales-tax revenue from British Cochin. It was therefore suggested that it would be desirable to provide relief to the dealers in British Cochin by reducing the general rate of the tax for that particular area to the old rate of 1%. Such a reduction can be made by a notificatio under Section 6 of the Madras General Sales-Tax Act, 1939. The Advisory Committee was in favour of such a course of action.

6. The next meeting of the Committee will be held at 2.30 p.m. on Friday, the 20th August, 1948.

Sd/- V.K. Rao,
27.7.48.

Sd/- B. Gopal Reddi,
Minister for Finance.
27.7.47.

Revenue Department

A meeting of the Commercial Taxes Advisory Committee was held on 20-2-48. The following Members and Officials were present:-

The Hon'ble the Minister for Finance.
The Hon'ble the Minister for Industries.
Sri N.M.R. Subbaraman, M.L.A.
Sri Guntur Narasimha Rao, M.L.A.
Sri M.N. Aswathaiah,
Mr. M. Nazir Hussain.
— Members.

S. Ranganathan, Esq., O.B.E., I.C.S., First Member, Board of Revenue.

Khan Sahib Mohammed Sultana Mohiuddin Hussain Sahib Bahadur, Additional Joint Secretary, Board of Revenue.

G. Venkateswara Ayyar Esq., O.B.E., I.C.S., Secretary to Government, of Revenue Department.

Sri M. Rayappa Reddi, Deputy Commission of Commercial Taxes, Central Division.

V.K. Rao, Esq., I.C.S., Deputy Secretary to Government, Revenue Department.

2. The Committee first took up the question of the modificatic of the conditions of thelicence relating to commission agents. Mr Mr. Ramanujulu Chetty, on behalfof the Andhra Chanmber of Commerce was present by special invitation. Revenue Secretary explained that the difficulties experienced by the Commission Agents were with regard to .-

(1) the production of a written order from the principal tc the commission agent authorising him to act on behalf of the principal-condition 7(a)(i) and7(b)(i) of the licence and

(2) production of vouchers for the incidental charges actually incurred and the apportionment of these charges to each transaction of each principal -Conditions 7(a)(ii) and 7(b)(ii) of thelicence. In regard to the first point, the suggestion put forth on behalf o f the commission agents was that instead of demanding the production of a written order from the principal the department might insist on the preparation by the commission agent of a patti in triplicate. The patti will show in the case of a buying agent, the name and addres of the principal, the goods bought on his behalf, the date of purchase the price, the agreed commission and the incidental charges; in the case of the selling agent, it will show the name and address of the principal, the goods sold on his behalf, the date of sale, the price, the agreed commission and the incidental charges. As soon as a transaction is complete, these patties in triplicate will be prepared and two copies will be sent to the principal who will retain one and return the other to the commission agent with his signature. Revenue Secretary stated that the Department had no objection to this procedure being followed and suggested that in addition to the preparation of the patties referred to above, the commission agent should as soon as possible, make an entry in the bill of purchase or sale the name of the principal on whose behalf he bought or sale, the name of the principal on whose behalf he bought or sold the goods. Alternatively an order book should be maintained on thelines now maintained by some European firms. These suggestions were accepted by the Committee.

In regard to the second point, viz., production of vouchers for the incidental charges actually incurred, it was suggested that vouchers need not be produced for each item of incidental charges actually incurred but that it would be sufficient if a ledger account is maintained showing the various incidental charges incurred with the vouchers in respect of items for which such vouchers can be produced. These items would be specified e.g. go down rent telephone charges. The suggestion was agreed to by the Committee.

3. Transactions in hides and skins - Liability to tax Certain points raised by Mr. Nazif Hussain.

The first point raised by Mr. Nazir Hussain was the levy of tax on untanned hides and skims purchased by a tanner but which are later exported. He pointed out that a tanner who purchases untanned hides and skins is taxed on the purchase value of those hides and skins and later when a portion of the same untanned hides and skins are exported outside the Province through exporting firms in Madras, sales tax is levied again on the same hides and skins on their sale value and that this results in doubel taxation. Mr.N.S. Varadachari,M.L.A., who was present by special invitation cited a case of a tanner of Dindigul who was thus taxed twice and whose case was before the Government. That these hides and skins should be taxed only once is accepted by all and is prescribed under the Act. It is however necessary to show that the tax has once been paid by the tanner in respect of any untanned hides and skins he may export through any firm in Madras. It was pointed out that there would not be much difficulty in thematter if the dealers submitted the prescribed returns to the Commercial Taxes Department which would help to show whether on a particular quantity of hides and skins exported by a Madras firm tax has already been paid. The Committee agreed that no amendments to the rules are necessary in the matter.

The other points raised by Mr. Nazir Hussain related to the number of licences to be taken by a tanner. The Additional Joint Secretary, Board of Revenue explained the position regarding the taking of a licence for each place of business.

4. Vanaspathi and its by-products - Exemption from sales tax - Request of the Tungabhadra Industries Ltd., Kurnool.

Deputy Secretary, Revenue explained to the Committee that the main request of the company was that "Vanaspathi" should also be eligible for the rebate allowed under rule 18 of the Turnover and Assessment Rules as in the case of a registered manufactures of ground-nut oil. The Hon'ble Minister for Industries wanted to know why a rebate is allowed to in the case of a manufacturer of ground-nut oil. It was explained to him that sales tax is levied on the purchase value of groundnut and a manufacturer of groundnut oil ea out of groundnut purchased by him has to pay tax on the purchas value of groundnut and again on the sale of the oil produced by him. To avoid such double taxation provision has been made in Rule 18 for a registered manufacturer of groundnut oil to be allowed to deduct from his turnover the value of the groundnut and/or kernel purchased and converted by him into oil and cake provided that the amount for which the oil is sold is included in his turnover. H.M. (Industries) pointed out that a manufacturer of 'Vanaspathi' also should get this benefit if he manufactures 'Vanaspathi' out of groundnut purchased by him, and crushed by him into oil. The Board was inclined to accept the suggestion. The Committee agreed that the benefit of the rebate under rule 18 should be allowed in the case of vanaspathi also. It was agreed that the other requests of the company relating to the grant of complete rebate for exports etc. should be negatived.

5. Entertainments tax - Prohibition of resale of tickets.

The Committee agreed that it would be difficult to enforce any provision that may be enacted prohibition the resale of tk ticket for admission to entertainments and that it was therefore not necessary to undertake any legislation for prohibiting the resale of tickets.

Sd/ V.K. Rao,
Deputy Secretary to Government
25.8.48.

Sd/ S.Y. Krishnaswami
Secretary

Sd/ B. Gopal Reddi
Minister for Finance.

Revenue Department

Please see the proceedings of the third meetings of the Advisory Committee held on 20-8-1948 at pages 54-57 c.f.

2. Action in regard to the recommendation of the Committee has been taken separately in the connected files. No further action is necessary in this file. The papers may be recorded as a G.O. The draft and order below is for approval.

G.O.Ms.No. 2227-Dated 16-9-1948.

Subject:-

Tax - Commercial Tax - Proceedings of the first three meetings of the commercial Taxes Advisory Committee - Papers Recorded.

R e c o r d e d.

Sd/-x x x x x x

/True Copy/

Office Assistant,
Madras Record Office.

SP/2.2.54.